



Appl. No.: 09/720,940
Reply Brief to Examiner's Answer mailed June 15, 2006

[113.1009]

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re: Application of: Rainer OSCHMANN, et al. Confirmation No.: 8398
Serial No.: 09/720,940
Filed: January 2, 2001
For: WATER_SOLUBLE NATIVE DRY PLANT EXTRACT,
IN PARTICULAR GINKGO BILOBA EXTRACT WITH
A HIGH CONTENT OF TERPENOIDES AND
FLAVONGLYCOSIDES
Art Unit: 1616
Examiner: Sabiha Naim QAZI
Customer No.: 23280
Attorney Docket: 113.1009

Mail Stop: APPEAL BRIEF - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

August 10, 2006

REPLY BRIEF UNDER 37 C.F.R. § 41.41

Sir:

Appellant submits this brief for the consideration of the Board of Patent Appeals and Interferences (the "Board") in reply to Examiner's answer mailed June 15, 2006 in this application.

The Examiner's Answer agrees that none of the prior art discloses "A water-soluble, native dry extract consisting essentially of Ginkgo biloba plant part constituents, wherein the extract is produced by ultrafiltration using a filter having an

average molecular weight cut off ranging from 2000 to 10000 Daltons and wherein the extract lacks any solubilization agents" as claimed in claim 11, but argues that "most active compounds in known from Ginkgo biloba have molecular weight less than 2000." However, this completely disregards the claim language and the prior art, which provide not just the active compounds and clearly have "Ginkgo biloba plant part constituents" which have a molecular weight greater than 10000. The products produced by the present invention as claimed and the prior art are different. See the present specification at page 9, line 1 et seq.

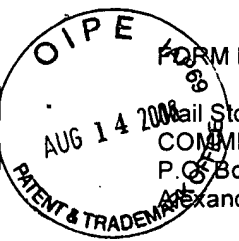
Respectfully submitted,

DAVIDSON, DAVIDSON & KAPPEL, LLC

By: 

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FORM PTO-1083

Docket No.: 113.1009

Date: August 10, 2006

Mail Stop: Appeal Brief - Patents
COMMISSIONER FOR PATENTS
P. O. Box 1450
Alexandria, VA 22313-1450

In re application of: **Rainer OSCHMANN et al.**
Serial No.: 09/720,940
Filed: January 2, 2001
For: **WATER-SOLUBLE NATIVE DRY PLANT EXTRACT, IN PARTICULAR GINKGO BILOBA EXTRACT WITH A HIGH CONTENT OF TERPENOIDS AND FLAVONEGLYCOSIDE CONTENT**

Sir:

Transmitted herewith is a **Reply Brief under 37 CFR 41.41 (2 pages)** in the above-identified application.

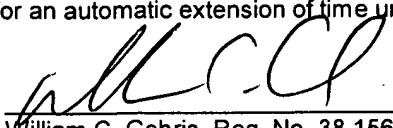
- ☐ Small entity status under 37 C.F.R. 1.9 and 1.27 has been previously established.
☐ Applicants assert small entity status under 37 C.F.R. 1.9 and 1.27.
☒ No fee for additional claims is required.
☐ A filing fee for additional claims calculated as shown below, is required:

FOR:	(Col. 1)	(Col. 2)	SMALL ENTITY		OR	LARGE ENTITY	
	REMAINING	HIGHEST	RATE	FEE		RATE	FEE
	AFTER	PREVIOUSLY					
	AMENDMENT	PAID FOR					
TOTAL CLAIMS	* Minus 20	=	0			x \$ 50	\$
INDEP. CLAIMS	* Minus 3	=	0			x \$ 200	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM						+ \$ 360	\$

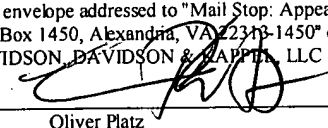
TOTAL: \$ OR TOTAL: \$

- * If the entry in Co. 1 is less than the entry in Col. 2, write "0" in Col. 3.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

- ☐ Also transmitted herewith are:
☐ Petition for extension under 37 C.F.R. 1.136
☐ Other:
- ☐ Check(s) in the amount of \$0.00 is/are attached to cover:
☐ Filing fee for additional claims under 37 C.F.R. 1.16
☐ Petition fee for extension under 37 C.F.R. 1.136
☐ Other:
- ☒ The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.
- ☒ Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
- ☒ Any patent application processing fees under 37 C.F.R. 1.17.
- ☒ Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.


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I hereby certify that the documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" with sufficient postage in an envelope addressed to "Mail Stop: Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on August 10, 2006.
DAVIDSON, DAVIDSON & KAPPEL, LLC

BY: 
Oliver Platz